

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

SMITHVILLE 169, LLC, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:11-cv-00872-DGK
)	
CITIZENS BANK & TRUST COMPANY,)	
)	
Defendant.)	

JUDGMENT IN A CIVIL CASE

The above captioned matter came to decision by the Court. The issues have been considered and a decision has been rendered.

Pursuant to the *Order Granting Defendant Summary Judgment on Counterclaims* (Doc. 182) entered on February 5, 2013, summary judgment was entered in favor of defendant/counterclaimant Citizens Bank & Trust Company (“defendant” or the “Bank”) on Counts I and II of its Counterclaim, on Counts I and III of plaintiffs’ claims, and on the following affirmative defenses to the Counterclaim asserted by plaintiffs: nos. 1, 2, 4-6, 8, 22-23, 26 and 33. The Court further ruled that the Bank is entitled to a Judgment in the amount of \$7,797,081.17 plus any interest and late charges that have accrued since August 1, 2011.

Pursuant to the *Order Granting Defendant Partial Summary Judgment Based on Missouri’s Credit Agreement Statute of Frauds* (Doc. 183) entered on February 5, 2013, summary judgment was entered in favor of the Bank on Counts II, V-XIII, XV-XVI of plaintiffs’ claims, and on plaintiffs’ affirmative defenses nos. 3, 7-21, 24-25, 27-32, and 35-36.

Pursuant to the *Order Granting Defendant Summary Judgment on Count IV* (Doc. 184) entered on February 5, 2013, summary judgment was entered in favor of the Bank on Count IV of plaintiffs' claims.

Pursuant to the *Order Granting Defendant Summary Judgment on Beverly Nelson's ECOA Claim* (Doc. 185) entered on February 5, 2013, summary judgment was entered in favor of the Bank on Count XIV of plaintiffs' claims, and on plaintiffs' affirmative defense no. 34.

Pursuant to the *Order Denying as Moot Motion for Summary Judgment* (Doc. 186) entered on February 5, 2013, plaintiffs' *Motion for Summary Judgment as to their Claims Against the Bank for Fraud and Fraudulent Nondisclosure* (Doc. 122) was denied as moot.

Pursuant to the *Order Denying as Moot Motion for Summary Judgment* (Doc. 187) entered on February 5, 2013, plaintiffs' *Motion for Summary Judgment as to their Claims that Defendant is Barred from Seeking Judgment Against Plaintiffs by Reason of Defendant's Failure to Dispose of Collateral In Its Possession, and that Defendant has Waived any Right to Foreclose the Deed of Trust such that the Deed of Trust Should be Released of Record* (Doc. 127) was denied as moot.

Pursuant to the *Order* (Doc. 188) entered on February 8, 2013, Jerry D. Nelson, as Personal Representative for the Estate of Beverly J. Nelson, was substituted for plaintiff Beverly J. Nelson.

Pursuant to the *Order* (Doc. 189) and the *Order* (Doc. 190), both entered February 8, 2013, all other pending motions were denied as moot.

JUDGMENT IS THEREFORE ENTERED in favor of Citizens Bank & Trust Company and against Smithville 169, LLC, Nelson & Nelson Dev. Co., Jerry D. Nelson, Jerry D. Nelson, as Personal Representative for the Estate of Beverly J. Nelson, and Hales Family Limited

Partnership 6, jointly and severally, in the amount of **\$7,797,081.17**, plus additional prejudgment interest incurred on the principal amount of \$7,302,558.00 after August 1, 2011 at the default rate of Prime plus 5% through the date of entry of this Judgment, plus additional interest incurred after the date of entry of this judgment at the legal rate set forth by 28 U.S.C. § 1961.

JUDGMENT IS FURTHER ENTERED in favor of Citizens Bank & Trust Company and against Michael S. Hales and Marlene S. Hales, jointly and severally, in the amount of **\$3,898,540.58**, plus half of the additional prejudgment interest incurred on the principal amount of \$7,302,558.00 after August 1, 2011 at the default rate of Prime plus 5% through the date of entry of this Judgment, plus additional interest incurred after the date of entry of this judgment at the legal rate set forth by 28 U.S.C. § 1961.

JUDGMENT IS FURTHER ENTERED in favor of Citizens Bank & Trust Company and against plaintiffs on all of their claims and affirmative defenses asserted in this action.

IT IS FURTHER ORDERED that the costs of this action shall be assessed against plaintiffs, pursuant to Fed. R. Civ. P. 54(d)(1).

IT IS BY THE COURT SO ORDERED, ADJUDGED AND DECREED

Let execution issue therefor.

/s/ Greg Kays
GREG KAYS
UNITED STATES DISTRICT JUDGE

DATE: February 20, 2013